

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ALEXANDER GALVAN,	§	
Petitioner,	§	
	§	
VS.	§	CIVIL ACTION NO.4:08-CV-737-Y
	§	
NATHANIEL QUARTERMAN, Director,	§	
T.D.C.J., Correctional	§	
Institutions DIV.,	§	
Respondent.	§	

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Alexander Galvan under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on March 10, 2009; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on March 27, 2009.

The Court, after **de novo** review, concludes that Petitioner's objections must be overruled,¹ and that the petition for writ of habeas corpus should be dismissed with prejudice as time-barred under 28 U.S.C. § 2244, for the reasons stated in the magistrate judge's findings and conclusions.

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

¹Galvan objects that his actual innocence claim justifies tolling of the limitations period. As noted by the magistrate judge, as Galvan has not made a showing of actual innocence, such claim does not constitute a "rare and exceptional" circumstance to warrant equitable tolling. See *Felder v. Johnson*, 204 F.3d 168, 171 n.8 (5th Cir. 2000).

Petitioner Alexander Galvan's petition for writ of habeas corpus is DISMISSED WITH PREJUDICE.

SIGNED March 31, 2009.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE